

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2002-122

April 26, 2002

MAINE PUBLIC UTILITIES COMMISSION
Investigation Into Potential Violations of
State Laws and Commission Rules by
WebNet Communications, Inc.

ORDER REGARDING
PROCEDURES,
DISCOVERY AND
INTERVENTION

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

SUMMARY

Through this Order, we adopt certain procedures for this Investigation.

BACKGROUND

On March 12, 2002, the Commission issued a Notice of Investigation regarding the business practices of WebNet Communications, Inc. (WebNet). The Commission has received more than 125 consumer complaints against WebNet. These complaints state that WebNet caused customers' presubscribed long distance service to be changed without customer authorization, charged rates other than those offered, and did not provide promised incentives for accepting WebNet's service. The Commission initiated this Investigation to examine the consumer complaints and WebNet's business practices, to determine whether WebNet has violated Maine statutes or Commission rules and, if violations are found, to consider appropriate sanctions.

The Notice of Investigation was accompanied by a set of interrogatories and requests for production of documents. On March 19, 2002, WebNet filed an objection to the interrogatories and requests for production. On March 21, 2002, the Public Advocate submitted his first set of data requests. On March 27, 2002, WebNet filed a motion to stay discovery.

PROCEDURES

This proceeding involves serious allegations regarding the practices of WebNet. As such, WebNet could be subject to substantial monetary penalties and the revocation of its authority to provide telephone service in the State. To ensure efficiency in process consistent with due process, this Investigation will be conducted as follows.

We will designate members of our staff to serve as prosecutorial staff in this proceeding. The prosecutorial staff will be a party in the proceeding and, accordingly, the Commission's *ex parte* rules (Chapter 110, § 760) will apply. The prosecutorial staff is charged with investigating the consumer complaints against WebNet and WebNet's business practices.¹ At the conclusion of its investigation, the prosecutorial staff shall submit a report to the Commission containing its findings, conclusions and recommendations for Commission action. The legal and consumer assistance staff that have been working on the WebNet matter [Trina Bragdon, Derek Davidson and Mary James] are hereby designated the prosecutorial staff in this proceeding. The prosecutorial staff is directed to provide its final report or a status report on the investigation by July 1, 2002.

WebNet, as well as the Public Advocate, will be provided an opportunity to submit written responses to the report of the prosecutorial staff. Based on the report and responses, the Commission will determine if further proceedings are warranted. In the event the Commission determines sanctions against WebNet should be considered, WebNet, upon request, will be provided a hearing, as well as a full opportunity for discovery. The hearing procedures will be conducted as an adjudicatory hearing as provided in the Commission's rules, Chapter 110, Part 7, and Maine's Administrative Procedures Act, 5 M.R.S.A. §§ 9051-9064. Future procedural matters in this proceeding will be determined by the Commission's designated hearing examiner.

DISCOVERY

On March 27, 2002, WebNet moved to stay discovery on the grounds that discovery is premature and unnecessary while the Consumer Assistance Division's investigation of individual consumer complaints is ongoing. To allow the prosecutorial staff to conduct its investigation as directed in this Order, it must be afforded an opportunity for discovery. Therefore, WebNet's March 27, 2002 motion to stay discovery is denied. The staff and Public Advocate may proceed with discovery. Consistent with Commission practice, the parties are expected to attempt in good faith to informally resolve discovery disputes. In the event discovery disputes cannot be resolved among the parties, appropriate motions to compel may be filed.

INTERVENTION

On March 14, 2002, the Public Advocate filed a petition for intervention. The Public Advocate's petition is granted.

¹ The parties may seek settlement during this or any other phase of the proceeding.

Dated at Augusta, Maine, this 26th day of April, 2002.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond

COMMISSIONER ABSENT: Nugent

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.